

### DETAILED ACTION

**This Office Action is in response to the amendment filed November 20, 2008.**

#### *Specification*

1. The amendment filed November 20, 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows (where the underlined text identifies the new matter): The present invention relates generally to a programming tool that is designed to interface between programmers and computers. According to the understanding of a person having ordinary knowledge in the art, a programming tool, as described herein, is defined as a "tool", a "machine," or any structure that enables a programmer to write different programs for a computing device. This programming tool also supports a programming method that allows a programmer to make extensive use of tables as a mean to represent the logical thinking of a programmer reflected in a program written by this programming tool, and enabling the programming process easily to be understood by third parties. As further described in the specification herein, the definition of programming tool also includes different programming tool structures that are local or remote from the computing device to be programmed by a programmer. Thus, these improvements enhance the efficiency of programming, reduce the likelihood of the presence of program bugs or structural errors. In addition, the training cost required for a programmer to learn the programming method is minimal. The resulting programs

composed with the invented method also will be easy to be read and to be maintained by any programmer.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 86-88, 92-113, 114-119, 120-128, 135-147, 148-153, 154-169, and 170-175 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
4. Regarding claims 86-88, claims 86-88 are directed to a programming tool. A programming tool does not fall within one of the statutory classes of inventions under 35 U.S.C. 101 as it is not a process because it is not a series of steps nor is the claimed programming tool a machine, or a composition of matter or manufacture (product classes).

Regarding claims 92-113, 114-119, 120-128, 154-169 and 170-175, the programming method claims of 92-113, 114-119, 120-128, 154-169 and 170-175 are directed to methods not eligible as a process under 35 U.S.C. 101. A method or process is statutory under 35 U.S.C. 101 if the method or process either (a) is tied to another statutory class of invention or (b) transforms subject matter to another state or thing. The programming method claims of 92-113, 114-119, 120-128, 154-169 and 170-175 fail to specifically recite limitations directed to the process being tied to another class of invention (for example, specifically reciting limitations for an apparatus

that accomplishes the method steps) or limitations directed to identifying statutory subject matter that is transformed to another state or thing.

Regarding claims 135-147, the programming method claims 135-147 are directed to methods not eligible as a process under 35 U.S.C. 101. A method or process is statutory under 35 U.S.C. 101 if the method or process either (a) is tied to another statutory class of invention or (b) transforms subject matter to another state or thing. The programming method claims of 135-147 fail to specifically recite limitations directed to the process being tied to another class of invention (for example, specifically reciting limitations for an apparatus that accomplishes the method steps) or limitations directed to identifying statutory subject matter that is transformed to another state or thing.

Regarding claims 148-153, the programming method claims of 148-153 are directed to methods not eligible as a process under 35 U.S.C. 101. A method or process is statutory under 35 U.S.C. 101 if the method or process either (a) is tied to another statutory class of invention or (b) transforms subject matter to another state or thing. The programming method claims of 148-153 fail to specifically recite limitations directed to the process being tied to another class of invention (for example, specifically reciting limitations for an apparatus that accomplishes the method steps) or limitations directed to identifying statutory subject matter that is transformed to another state or thing.

***Allowable Subject Matter***

5. Claims 89-91, 129-134, and 176 are allowed.

***Response to Arguments***

6. Applicant's arguments with respect to claims 86-88, 92-113, 114-119, 120-128, 135-147, 148-153, 154-169, and 170-175 have been considered but are not persuasive.

Applicant argues the specification provides support for the programming tool to be a machine or device by the way of the amendment filed November 20, 2009. In response, the Examiner argues, the added material was not supported by the original disclosure and is therefore new matter.

Applicant argues claim 86 is directed to a machine and is a statutory invention. The Examiner cannot concur. Since the specification, as originally filed, describes the invention as an interface between programmers and computers (i.e. software) and the claim fails to specifically recite claim limitations for components or physical structure to define or describe a machine or tangible device.

Applicant argues claims 92, 114, 120, 135, 148, 154, 170 and 175 have been amended to be "tied to" a specific machine. The Examiner cannot concur. The claims have been amended to recite "the programming tool", which, is an interface or software program used by the programmer, but is not a machine. Further, the steps being performed in the method claims are performed by a human (as recited in the claims) and therefore fail to satisfy the tied to requirement for a statutory process under 35 USC 101. The nominally claimed transformation step is merely a manipulation of an abstract idea (from the specification, applicant has defined the invention as a manipulation of data tables that represent logical thinking of a programmer) and therefore fails to satisfy the physical transformation requirement for a statutory process under 35 USC 101. Accordingly, since the claims fail to meet either of the requirements to be

eligible as a statutory process under 35 USC 101, the claims fail to fall within one of the statutory categories of invention and are rejected under 35 USC 101.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANGELA A. ARMSTRONG whose telephone number is (571)272-7598. The examiner can normally be reached on Monday-Thursday 11:30-8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Angela A Armstrong/  
Primary Examiner, Art Unit 2626